IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) Criminal Revision No.2400 of 2005
Date of Decision 24.12.2010

Arjan Singh

..... Petitioner

VERSUS

Rajinder Kumar

..... Respondent

(ii) Criminal Revision No.2401 of 2005

Arjan Singh

..... Petitioner

VERSUS

Jagir Singh Lambardar

..... Respondent

CORAM:- HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr.H.S.Dhandi, Advocate,
for the petitioner (in both the petition).

None for the respondent.

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A.N.JINDAL, J:

This judgment shall dispose of two connected petition Nos.2400 and 2401 of 2005, having arisen out of the judgments dated 14.12.2005, passed by the Appellate Court at Kapurthala, dismissing the appeals of the petitioner-accused (herein referred as 'the petitioner') against the judgments dated 02.02.2005, passed by Judicial Magistrate Ist Class, Kapurthala, convicting and sentencing him to undergo rigorous imprisonment for a period of 1½ years and to pay a fine of Rs.2,000/- each under Section 138 of the Negotiable Instruments Act, 1881 (for brevity 'the Act').

The allegations against the petitioner are that in discharge of his legally enforceable liability, he issued two cheques dated 25.06.2000 for a sum of Rs.1,50,000/- each in favour of the respondents-complainants (herein referred as 'the complainants') and on presentment, the same were dishonoured with the remarks 'insufficient funds'. He had also not responded to the notices as issued by the complainant. Consequently, complaint was filed which was contested by the petitioner.

On trial, he was convicted and sentenced accordingly.

Without assailing the judgment of conviction, learned counsel seeks some leniency on the quantum of sentence.

Having scrutinized the impugned judgments, it transpires that sufficient evidence has been led in order to establish the notices of accusation issued against the petitioner. The evidence reveals that cheques were issued on 25.06.2000 in favour of the complainant, who tendered the same for encashment but were dishonoured. The complainant issued notice in both the cases and the same were received back served but the petitioner neither sent reply to the notices nor paid the cheques amount. Evidence led in defence is not worth reliance. The evidence, on the basis of which findings of fact have been returned by the Courts below, appears to have been appreciated in the right perspective. No such illegality much less irregularity or manifest error apparent on the record has been pointed out in the conduct of the trial or procedure which may result into miscarriage of justice or cause any prejudice to the petitioner, therefore, these findings do not call for any interference at this revisional stage.

Now coming to the quantum of sentence, it is noticed that the complaints are of the year 2001. The petitioner has suffered a lot of agony

on account of the pendency of proceedings in the Courts for the last nine years. He has undergone more than one month of the substantive sentence. Under the peculiar circumstances of the present case, it would be in the fitness of things to reduce the sentence to some extent.

Resultantly, both the aforesaid petitions are dismissed with the modification in the sentence which is reduced to one year in each case without any alteration in the sentence of fine. However, the sentence in both the cases shall run concurrently.

Copy of the judgment be sent to Chief Judicial Magistrate, Kapurthala, for compliance.

(A.N.Jindal)
Judge

24.12.2010
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